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RESOLUTION NUMBER R- 303354  
DATE OF FINAL PASSAGE JAN 22 2008

WHEREAS, Bonair Street Ocean Villas, LLC, Applicant/Subdivider, and Brent C. Moore, Engineer, submitted an application to the City of San Diego for a tentative map (Tentative Map No. 444017), and easement vacation (Easement Vacation No. 445335) for the development of a 0.155 acre site into five residential units under construction to condominium ownership, and an easement vacation for the Windansea Luxury Condos [Project], located at 231 Bonair Street, and legally described as Lots 4,5 and 6, La Jolla Strand, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 1216, filed in the Office of the County Recorder of San Diego on November 26, 1923, in Book 961, Page 412 of Deeds, in the La Jolla Community Plan area, in the RM-3-7 zones, Coastal Overlay, Parking Impact, Residential Tandem Parking, and Transit Area Overlay Zones; and

WHEREAS, on November 15, 2007, the Planning Commission of the City of San Diego considered Tentative Map No. 444017 Easement Vacation No. 445335, and pursuant to Resolution No. 4339-PC voted to recommend City Council approval of the map; and

WHEREAS, the Project is exempt from environmental review pursuant to Article 19, Section 15301(k) of the California Environmental Quality Act [CEQA] on the basis that the facilities are existing; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and San Diego Municipal Code section 144.0220; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium units is five; and

WHEREAS, the matter was set for public hearing on JAN 22 2008, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 444017 and Easement Vacation No. 445335:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan San Diego Municipal Code/Land Development Code [SDMC/LDC] section 125.0440(a) and Subdivision Map Action sections 66473.5, 66474(a), and 66474(b).
2. The proposed subdivision complies with the applicable zoning and development regulations of (SDMC/LDC section 125.0440(b)).
3. The site is physically suitable for the proposed density of development (SDMC/LDC section 125.0440(c) and Subdivision Map Act sections 66474(c) and 66474(d)).
4. The design of the subdivision and the proposed improvements are likely not to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (SDMC/LDC section 125.0440(d) and Subdivision Map Act section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (SDMC/LDC section 125.0440(e) and Subdivision Map Act 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the

proposed subdivision (SDMC/LDC section 125.0440(f) and Subdivision Map Act section 66474(g)).

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (SDMC/LDC section 125.0440(g) and Subdivision Map Act section 66473.1).

8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (SDMC/LDC section 125.0440(h) and Subdivision Map Act section 66412.3).

9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (SDMC/LDC section 125.0444(b)).

10. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with (SDMC/LDC sections 142.1306 and 144.0508).

11. The proposed subdivision complies with the parking regulations (SDMC/LDC section 142.0505).

12. The sewer easement in Lots 4, 5 and 6, Block 1, of La Jolla Strand Map No. 1216, recorded on November 26, 1923, in Book 961, Page 412 of Deeds, is no longer needed for the public purpose for it was granted. The sewer easement must be vacated on the final map in accordance with the San Diego Municipal Code section 125.0430.

13. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense*, in that the conversion involves a short span of overhead facilities (less than 600 feet in length).

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), portions of Lots 4, 5 and 6, Block 1, located within the project boundaries as shown in Tentative Map No. 444017, shall be vacated, contingent upon the recordation of the approved final map for the project.

(R-2008-556)

BE IT FURTHER RESOLVED, that Tentative Map No. 444017 is granted to Bonair Street Ocean Villas, LLC, Applicant/Subdivider and Brent C. Moore, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene  
Marianne Greene  
Deputy City Attorney

MG:als  
01/02/08  
Or.Dept:DSD  
R-2008-556

CONDITIONS FOR TENTATIVE MAP NO. 444017

WINDANSEA LUXURY CONDOS- PROJECT NO. 128934

ADOPTED BY RESOLUTION NO. R-303354 ON JAN 22 2008

**GENERAL**

1. This Tentative Map will expire on JAN 22, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot and vacate the sewer easement shall be recorded in the Office of the County Recorder.
4. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant

**AFFORDABLE HOUSING**

5. The subdivider shall pay an Inclusionary Affordable Housing In-Lieu Fee of \$36,313.85 (9,949 square feet x \$3.65), pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

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## **ENGINEERING**

6. The Final Map shall comply with the provisions of Coastal Development Permit Nos. 7283 and 443805.
7. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
8. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
9. The subdivider shall dedicate and improve an additional five feet of alley from the access to the underground parking to the westerly subdivision boundary and grant a five foot Irrevocable Offer of Dedication from the access to the underground parking to the easterly property line.
10. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

## **MAPPING**

11. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
12. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
13. The Final Map shall:
  - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet

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thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid to ground distances shall be shown on the map.

#### **SEWER AND WATER**

14. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be private or re-designed.
15. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.
16. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

#### **INFORMATION:**

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map may protest the

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imposition within ninety days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.

- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

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